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Attorney General
2 KEITH E. KIZER
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4 555 East Washington Avenue
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5 Las Vegas, Nevada 89101
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9 **BEFORE THE NEVADA ATHLETIC COMMISSION**

10 **STATE OF NEVADA**

11 * * *

12 **IN THE MATTER OF:**) **COMPLAINT FOR**
13) **DISCIPLINARY ACTION,**
14 **FERNANDO VARGAS**) **AND NOTICE OF HEARING**
15)
_____)

16 COMES NOW, MARC RATNER, Executive Director for the ATHLETIC COMMISSION of
17 the DEPARTMENT OF BUSINESS AND INDUSTRY, STATE OF NEVADA, and complains for
18 disciplinary action against FERNANDO VARGAS (VARGAS), as follows:
19

20 **JURISDICTION**

21 1. VARGAS is now, and at all pertinent times alleged herein, licensed in Nevada as a
22 professional boxer by the NEVADA ATHLETIC COMMISSION (Commission).

23 2. As the holder of a Nevada professional boxer's license, VARGAS is subject to the
24 provisions of chapter 467 of the Nevada Revised Statutes (NRS), and of chapter 467 of the Nevada
25 Administrative Code (NAC).

26 3. Pursuant to NRS Chapter 467, the Commission is vested with the sole discretion,
27 management, control and jurisdiction over contests, exhibitions and licensees of unarmed combat,
28 which includes boxing.

FACTUAL ALLEGATIONS

4. VARGAS participated in a boxing contest in Las Vegas, Nevada on September 14, 2002 (the "Contest"). The Contest was conducted under the direction of the Commission.

5. After the Contest, on the same date, VARGAS voluntarily submitted to a urinalysis (the "Urinalysis") and provided a urine sample for testing.

6. The Urinalysis reflected that the presence of Stanozolol Metabolite, which is an anabolic agent. The results of the Urinalysis are reflected in the Toxicology Report attached hereto as Exhibit 1.

7. The administration of or use of any drug that has not been approved by the Commission by a Nevada licensed boxer is prohibited by the Regulations of the Commission.

ALLEGED VIOLATIONS

8. Based upon and incorporating by reference the foregoing Factual Allegations, the Executive Director alleges that VARGAS violated Nevada Administrative Code (NAC) 467.850. NAC 467.850(1), (5) and (6) provide in full as follows:

1. The administration of or use of any:

(a) Alcohol;

(b) Stimulant; or

(c) Drug or injection that has not been approved by the commission, including, but not limited to, the drugs or injections listed in subsection 2, in any part of the body, either before or during a contest or exhibition, to or by any unarmed combatant, is prohibited.

5. A unarmed combatant shall submit to a urinalysis or chemical test before or after a contest if the commission or the commission's representative directs him to do so.

6. A licensee who violates any provision of this section is subject to disciplinary action by the commission.

9. Stanozolol Metabolite is not a drug or stimulant approved by the Commission.

10. NAC 467.886 provides in pertinent part as follows:

A person licensed by the commission shall not engage in any activity that will bring disrepute to unarmed combat

11. By testing positive for the anabolic agent referenced in paragraphs 6 and 9 above, VARGAS has violated NAC 467.850 and 467.886.

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DISCIPLINE AUTHORIZED

12. NRS 467.157 provides that, "Any license issued under this chapter may be revoked for cause deemed sufficient by the commission upon a hearing provided for in NRS 467.113."

13. NRS 467.158 provides in pertinent part as follows:

2. If disciplinary action is taken against a person pursuant to this chapter, including, but not limited to, a hearing for the revocation of a license, and the disciplinary action relates to:

(a) The preparation for a contest or an exhibition of unarmed combat;

(b) The occurrence of a contest or an exhibition of unarmed combat; or

(c) Any other action taken in conjunction with a contest or an exhibition of unarmed combat, the commission may prescribe a penalty pursuant to subsection 3.

3. A penalty prescribed by the commission pursuant to subsection 2:

(a) Must not exceed \$250,000 or 100 percent of the share of the purse to which the holder of the license is entitled for the contest or exhibition, whichever amount is greater; and

(b) May be imposed in addition to or in lieu of any other disciplinary action that is taken against the person by the commission.

4. If disciplinary action is taken against a person pursuant to this chapter, the commission may require the person against whom such action is taken to pay the costs of the proceeding, including investigative costs and attorney's fees.

NRS 467.158(2)-(4).

14. NAC 467.885(2) and (5) provides in full as follows:

The commission may suspend or revoke the license of, or otherwise discipline or take any combination of such actions against a licensee who has, in the judgment of the commission:

....

2. Violated any provision of this chapter;

....

5. Conducted himself at any time or place in a manner which is deemed by the commission to reflect discredit to unarmed combat

NAC 467.885(2) and (5).

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RELIEF SOUGHT

Based upon the allegations contained herein which constitute sufficient cause for disciplinary action against the licensee pursuant to the provisions of NRS Chapter 467 and NAC Chapter 467, the Executive Director prays for relief as follows:

1. That VARGAS be fined a monetary sum pursuant to the parameters defined at NRS 467.158;
2. That the Commission take action against VARGAS's license pursuant to the parameters defined at NAC 467.885;
3. That VARGAS pay the costs of the proceeding, including investigative costs and attorney's fees; and/or
4. For such other and further relief as the Commission may deem just and proper.

NOTICE OF HEARING

THEREFORE, VARGAS is directed to Answer in writing the Complaint for Disciplinary Action within 20 days from service. Thereafter a hearing into this matter will be scheduled at the offices of the Nevada Athletic Commission, 555 East Washington Avenue, Suite 1500, Las Vegas, Nevada 89101, or such other place as may be designated, in writing, by the Commission. The Commission will, at that time, take such action as may be just and proper pursuant to the proof and pertinent laws.

VARGAS is entitled to be represented by counsel of his choice at the hearing. Additionally, VARGAS is entitled to cross-examine witnesses, present evidence and argue on his own behalf before a decision is made by the Commission.

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1 Should VARGAS fail to appear at the hearing, a decision may be reached in his absence.

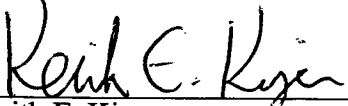
2 DATED this 3rd day of October 2002.

3 NEVADA ATHLETIC COMMISSION,
4 DEPARTMENT OF BUSINESS AND INDUSTRY,
5 STATE OF NEVADA

6 By: 
7 MARC RATNER
8 Executive Director

9
10 SUBMITTED BY:

11 FRANKIE SUE DEL PAPA
12 Attorney General

13 By: 
14 Keith E. Kizer
15 Chief Deputy Attorney General

CERTIFICATE OF SERVICE

I hereby certify that on the 3rd day of October 2002, I served the foregoing **COMPLAINT FOR DISCIPLINARY ACTION AND NOTICE OF HEARING** by depositing a copy of the same in the United States mail, properly addressed, postage prepaid, **REGULAR MAIL** and **CERTIFIED MAIL** addressed as follows:

FERNANDO VARGAS
1451 Menta Lane
Camarillo, CA 93010
Certified Mail No. 7000 0520 0023 5270 0758

and by serving on FERNANDO VARGAS's behalf, via facsimile:

PATRICK C. ENGLISH, Esq.
Dines and English
685 Van Houten Avenue
Clifton, NJ 07013
Fax No. (973) 778-7633


An Employee of the Athletic Commission's office

EXHIBIT 1



AMERICAN MEDICAL LABORATORIES, INC.

SEP 26 2002

4230 Burnham Ave.
Las Vegas, Nevada 89119
(702) 733-3790 • (800) 433-2750
www.aml.comJames A. Bourland, Ph.D.
Technical Director, Toxicology

CAP No. 89109-004-011

PATIENT	VARGAS, FERNANDO J	AML ROUTE	TOX24	882
		REFERRED BY	NV STATE ATHLETIC COMMISSION	
AGE/SEX	24Y M	ACCESSION NO.	01131040	555 E. WASHINGTON, STE 1500
COLLECTED	09/14/2002 23:50	MED. RECORD NO.	6500395844	ATTN: MARC RATNER
MISSIONED	09/15/2002 16:00	CHART NO.	03773671	LAS VEGAS, NV 89101
LOGY NO.	020282703 M	SS NO.	568-49-6943	

TOXICOLOGY REPORT

PROFILE.808 URINE

RESULTS: DOXYLAMINE IDENTIFIED.

PHENYLPROPANOLAMINE, EPHEDRINE AND PSEUDOEPHEDRINE
IDENTIFIED.

THIS SPECIMEN HAS BEEN SCREENED FOR THE FOLLOWING DRUGS:

Acetaminophen	Amitriptyline	Amobarbital
Amphetamine	Barbital	Benzoyllecgonine
Butabarbital	Butalbital	
Cannabinoids (THC/Marijuana)		Chlordiazepoxide
Cocaine	Carbamazepine	Desipramine
Diazepam	Dihydromorphinone	Diphenhydramine
Ethchlorvynol	Ethosuximide	Glutethimide
Imipramine	Lidocaine	Meperidine
Mephobarbital	Meprobamate	Methadone & Metabolite
Methamphetamine	Methaqualone	Methsuximide
Morphine	Methyprylon	Nordiazepam
Nortriptyline	Oxycodone	Pentazocine
Pentobarbital	Phencyclidine (PCP)	Phenobarbital
Phenylpropanolamine	Phenytoin	
Propoxyphene & Metabolite		Salicylate
Secobarbital	Theophylline	Valproic Acid

ANY OTHER DRUGS OR TOXINS DETECTED ARE ALSO INCLUDED IN THIS REPORT.

DOX LEGAL SEND-OUT

RESULTS: ANABOLIC AGENTS: STANZOLOL METABOLITE = POSITIVE.

DIURETICS = NEGATIVE.

MASKING AGENTS = NEGATIVE.

REFERENCE LABORATORY: QUEST DIAGNOSTICS INC.
SAN DIEGO FORENSIC TOXICOLOGY LAB
7470 MISSION VALLEY ROAD
SAN DIEGO, CA 92108
DIRECTOR: DANIEL MOLDEN, M.D.
1-800-848-4225

REPORT ATTACHED.

REASON FOR TEST:
TITLE FIGHT

41126487 AREA/ROUTE/STOP: XXXXXXXX
ASSOC PATHOLOGISTS LAB

4230 BURNHAM AVE, STE 250
LAS VEGAS, NV 89119

LABORATORY REPORT



Quest
Diagnostics

PARTICIPANT NAME 020282703		PARTICIPANT ID VARGAS FERNANDO		ROOM NO.	AGE	SEX	PHYSICIAN	
PAGE 1	REQUISITION NO 0282703	ACCESSION NO 046862A	LAB REF. #	COLLECTION DATE & TIME 09162002 09:00AM		LOG-IN-DATE 09172002	REPORT DATE 09202002	& TIME 3:03 PM

REMARKS Client Site Location:

REASON FOR TEST: UNKNOWN

DONOR ID VERIFIED:

REPORT STATUS	FINAL	TEST	RESULT		UNITS	REFERENCE RANGE	SITE CODE
			IN RANGE	OUT OF RANGE			
REPORT FOR:		ASSOC PATHOLOGISTS LAB - 41126487					
		4230 BURNHAM AVE, STE 250					
		LAS VEGAS, NV 89119					
		*** POSITIVE/ABNORMAL REPORT ***					
Tests Ordered: 38307N (STEROID/DIURETIC I)							
Anabolic Agents							
STANOZOLOL METAB.		POSITIVE					
Diuretics							
DIURETICS		Negative					
Masking Agents							
MASKING AGENTS		Negative					
Drug Class Tested							
Anabolic Agents:							
		Bolasterone Metabolite, Boldenone Metabolite, Clenbuterol, Clostebol Metabolite, Danazol &/or Metabolite, DHCMT (Dehydrochloromethyltestosterone) Metabolite, Dihydrotestosterone, Dromostanolone &/or Metabolite, Ethylestrenol/Norethandrolone Metabolite, Fluoxymesterone Metabolite, Formebolone Metabolite, Furazabol Metabolite, Mesterolone &/or Metabolite, Methandienone (Dianabol, Methandrostenolone) Metabolite, Methandriol &/or Metabolite, Methenolone &/or Metabolite, Methyltestosterone Metabolite, Mibolerone Metabolite, Nandrolone/					
		>> REPORT CONTINUED ON NEXT PAGE <<					

FAX

LABORATORY REPORT


**Quest
Diagnostics**

CONTINUED REPORT

 41126487 AREA/ROUTE/STOP: XXXXXXXX
 ASSOC PATHOLOGISTS LAB

 4230 BURNHAM AVE, STE 250
 LAS VEGAS, NV 89119

PARTICIPANT NAME			PARTICIPANT ID		ROOM NO.	AGE	SEX	PHYSICIAN	
020282703			VARGAS FERNANDO						
PAGE	REQUISITION NO.	ACCESSION NO.	LAB REF. #		COLLECTION DATE & TIME		LOG-IN DATE	REPORT DATE	& TIME
2	0282703	046862A			09162002 09:00AM		09172002	09202002	3:03 PM

REMARKS Client Site Location:

REASON FOR TEST: UNKNOWN

DONOR ID VERIFIED:

REPORT STATUS	FINAL	TEST	RESULT		UNITS	REFERENCE RANGE	SITE CODE
			IN RANGE	OUT OF RANGE			
REPORT FOR:		ASSOC PATHOLOGISTS LAB - 41126487					
		4230 BURNHAM AVE, STE 250					
		LAS VEGAS, NV 89119					
Drug Class Tested							
		Norandrostendione/Norandrostendiol Metabolite, Oxandrolone &/or Metabolite, Oxymesterone, Oxymetholone Metabolite, Stanozolol Metabolite, Testosterone/Androstendione/Androstendiol/DHEA (T/E Ratio > 6), Trenbolone Metabolite					
Masking Agents:							
		Probenecid, Epitestosterone (> 200 ng/mL)					
Diuretics:							
		Acetazolamide, Bendroflumethiazide, Bumetanide, Canrenone/Spironolactone, Chlorothiazide, Chlorthalidone, Clopamide, Cyclothiazide, Dichlorphenamide, Ethacrynic Acid, Furosemide, Hydrochlorothiazide, Hydroflumethiazide, Methyclothiazide, Metolazone, Polythiazide, Quinethazone, Trichlormethiazide					
CERTIFYING SCIENTIST:		CAROL PENNOYER					
SPECIMEN RECEIVED AND PROCESSED IN THE		SAN DIEGO FORENSIC TOXICOLOGY LABORATORY					
LAB:	Quest Diagnostics						
	7470 Mission Valley Road						
	San Diego CA 92108						
		>> END OF REPORT <<					